

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PAULINO DE LA CRUZ *and* JUVENTINO RAMOS,

Plaintiffs,

v.

TREJO LIQUORS, INC. d/b/a TREJO LIQUORS AND
WINES *and* JOHANNY TREJO

Defendants.

No. 16-cv-4382 (VSB)

NOTICE OF MOTION TO DISMISS

Defendants, by and through counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court for an order dismissing Plaintiff Mr. De la Cruz's third cause of action alleging retaliation under the FLSA in the Second Amended Complaint for failure to state a claim upon which relief may be granted. In support of their motion, Defendants refer this Court to their Memorandum of Law in Support, filed simultaneously herewith.

WHEREFORE, for the reasons stated in the accompanying memorandum of law in support of this motion, Defendants respectfully request that this Court (1) grant their motion to dismiss with respect to the third cause of action alleging retaliation in the Second Amended Complaint with prejudice; and (3) award any other relief that this Court deems just and proper.

Dated: New York, New York
April 28, 2017

/s/ Argilio Rodriguez
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CERTIFICATION OF SERVICE

I, Argilio Rodriguez, hereby certify that on April 28, 2017, I caused a copy of the attached Notice of Motion to Dismiss and the Memorandum of Law in Support of Defendants' Motion to Dismiss to be served: (i) electronically on all counsel registered for electronic service in this action; and (ii) by first class mail to opposing counsel.

Dated: New York, New York
April 28, 2017

/s/Argilio Rodriguez
Argilio Rodriguez, Esq.